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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional):

2002-021/PU03 0061US1

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Date: **December 21, 2007**

Signature:

Typed or printed name: **KATHLEEN KOPPEN**

Application Number:

10/696,864

Filed:

October 30, 2003

First Named Inventor:

Eaton

Art Unit:

2617

Examiner:

**MARIVELISSE
SANTIAGO CORDERO**

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor

☐ assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.

(Form PTO/SB/96)

☒ attorney or agent of record

Registration Number: 32,194

☐ attorney or agent acting under 37 CFR 1.34.

Registration Number if acting under 37 CFR 1.34 _____



Signature

David E. Bennett

Typed or Printed Name

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Telephone Number

December 21, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ form(s) is/are submitted.

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

William Eaton

Serial No.: **10/696,864**

Filed: October 30, 2003

**For: A Mobile Device with a Combination
Attachment and Acoustic Port**

Docket No: **2002-021**

PATENT PENDING

Examiner: Marivelisse Santiago Cordero

Group Art Unit: 2617

Confirmation No.: 8058

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CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

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21 December 2007

Date

Kathleen Koppen

This correspondence is being:

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PRE-APPEAL BRIEF REQUEST FOR REVIEW ARGUMENTS

Applicant submits the following remarks in support of the Pre-Appeal Brief being filed concurrently with a Notice of Appeal. If any fees not covered by the enclosed check are required, please charge them to Deposit Account No. 18-1167.

Claims 1 – 35 are currently pending, of which claims 1, 13, 16, and 25 are independent. Independent claims 1 and 16 stand finally rejected under §103 as obvious in view of Altilio (US5898363) and Naruki (US4450495). Independent claims 1, 13, 16, and 25 stand finally rejected under §103 as obvious in view of Steiger (US2004/0244566) and Vanga (US5753838). Independent claims 1, 16, and 25 are directed to a mobile device having a combined attachment and acoustic port. The claimed port includes an attachment member designed to secure an external member to the mobile device. By combining these individual elements into a single combined element, the claimed mobile device efficiently utilizes available space.

Independent claim 13 represents a corresponding method claim. As discussed in further detail herein, the cited references are both structurally and functionally different from the claimed invention. As such, the rejections fail.

First, neither Steiger nor Vanga are relevant to the claimed invention. Steiger discloses a guitar having a sound hole 12 that projects sound, and a string holder 17 that secures guitar strings over the sound hole (see Figure 1). Vanga discloses a string holder for a guitar. Guitars are not mobile devices as the specification, figures, and claims describe that term. Moreover, those skilled in the art commonly understand that a mobile device is a portable electronic device such as a cellular telephone or a portable audio player. No one skilled in the art would ever interpret a guitar as a mobile device.

Moreover, neither Steiger nor Vanga teach or suggest a support bar disposed in an opening of an acoustic port, as required by independent claims 13 and 25. The Examiner admits that Steiger does not teach this limitation, but asserts that Vanga does. Vanga, however, teaches a string holder that clips to either side of a sound hole in a guitar. The string holder cannot possibly be disposed in the opening as claimed. The string holder of Vanga must remain outside of the opening because the strings must remain outside the opening. If the Vanga string holder were in the opening, the strings would be in the housing and the guitar would be useless to the user.

In addition, neither reference teaches or suggests that their respective string holders are configured to receive an external strap that attaches to the mobile device, as required by each of independent claims 1, 13, 16, and 25. Contrastingly, both hold guitar strings – which are not external straps by any interpretation of that term. No one carries a guitar by its strings. Thus, no one skilled in the art would ever believe that a guitar string – held taught over a sound hole – is the same thing as an external strap. Thus, neither string holder is configured to receive an external strap as claimed.

The rejections evidence an unduly broad and unreasonable interpretation of the claims and references. They do not teach or suggest what the Examiner says they do, nor are the references relevant. Neither reference teaches or suggests independent claims 1, 13, 16, or 25, or any of their dependent claims, alone or in combination. Therefore, the §103 rejections must be withdrawn.

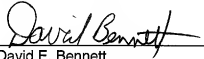
Next, neither Altilio nor Naruki teach or suggest the mobile device of independent claims 1 and 16. The examiner asserts the handle 11b shown in Figure 1 of Altilio corresponds to the attachment member claimed in claims 1 and 16. While the examiner concedes that Altilio does not show the claimed external strap, the examiner contends that Naruki does. Naruki shows securing a carrying belt 68 to strap mounts 67 on a mobile device to enable a user to carry the device around the waist (see Figure 6). Nothing in Naruki teaches or suggests securing the carrying belt or any other type of strap to an already existing handle. Further, because a handle already provides a means for carrying the device, it is unclear why anyone would be motivated to secure an external strap to the already existing handle of Altilio. Thus, there is no motivation to secure any type of external strap, much less the carrying belt of Naruki, to the handle of Altilio, as suggested by the examiner. Because neither Naruki nor Altilio teach or suggest connecting an external strap to the handle of Altilio or any other attachment member that spans an opening of an acoustic port, neither Altilio nor Naruki, alone or in combination, teach or suggest the attachment member and external strap of independent claims 1 and 16.

In light of the above remarks, independent claims 1, 13, 16, and 25 are new and non-obvious over the cited art. As such, the applicants request that the Pre-Appeal Brief Panel

reconsider and reverse the examiner's rejections of claims 1 – 35.

Respectfully submitted,

COATS & BENNETT, P.L.L.C.

A handwritten signature in black ink, appearing to read "David E. Bennett", is written over a horizontal line.

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